



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

07 JUL 2006

Marvin J. Spivak  
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.  
1940 Duke Street  
Alexandria, VA 22314

In re Application of  
OGURA, et al.  
Application No.: 10/561,530 (10/472,483)  
PCT No.: PCT/JP01/08535  
Int. Filing Date: 28 September 2001  
Priority Date: 29 March 2001  
Atty Docket No.: 241082US2XPCT  
For: NEGATIVE RESISTANCE FIELD-EFFECT  
ELEMENT

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.181 to Grant a Filing Date" filed 14 December 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

**BACKGROUND**

On 28 September 2001, applicant filed international application PCT/JP01/08535, which claimed a priority date of 29 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 October 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 29 September 2003.

On 14 December 2005, applicant filed the present petition indicating that while a U.S. National stage entry had been filed with the USPTO on 29 September 2003 (as evidenced by the postcard returned by the USPTO with a serial number of 10/472,483), applicant was informed during a phone call with the PCT Help Desk that the USPTO had no record of the filing. Applicant's petition was accompanied by copies of the papers allegedly filed 29 September 2003.

**DISCUSSION**

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "Rec'd PCT/PTO 29 SEP 2003" and clearly identifies:

13 pgs. Specification, 3 Claims (English Translation)  
Combined Declaration, Petition & Power of Attorney (4 pages)  
Application Data Sheet  
Notice of Priority

Dep. Acct. Order Form  
Credit Card Payment Form for \$900.00  
Drawings (3 Sheets)  
PCT Transmittal Letter  
PCT/IB/304  
International Preliminary Examination Report  
Information Disclosure Statement  
international Search Report  
Declaration of Takeyoshi SUGAYA

as well as listing the inventors, international application number and attorney docket number. The evidence is sufficient to establish that the National stage papers were received in the USPTO on 29 September 2003. Applicant has certified that the copies filed with the present petition are true and complete copies of the papers originally filed on 29 September 2003. As such, it is proper to GRANT applicant's petition at this time.

As the USPTO has no record of application serial number 10/472,483 the serial number identified above (10/561,530) will be considered the U.S. National stage entry for international application PCT/JP01/08535. The fees paid in application 10/472,483 will be transferred to the serial number 10/561,530 and applicant should continue to use this number in all future correspondence with the USPTO.

Regarding the declaration of inventor Sugaya, MPEP section 605.04 states:

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

Applicant's have advised the Office of the error in the international application, the inventor has confirmed the correct spelling of his name and applicant has provided an application data sheet with the correct spelling of the inventor's name. In addition, the name is correctly spelled on the combined declaration and power of attorney.

An examination of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 29 September 2003.

DOCKET NO: 241082US2XPCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE **RECEIVED**

IN RE APPLICATION OF: : ATTN: PCT Legal Office **27 DEC 2005**  
Mutsuo OGURA et al. : INT'L. APPLICATION NO.  
SPECIAL **Legal Staff**  
SERIAL NUMBER: 10/472,483 : PCT/JP01/08535  
INTERNATIONAL DIVISION  
FILED: 09/29/03 :  
INT'L. FILING DATE :  
: 28 September 2001

FOR: NEGATIVE-RESISTANCE FIELD-EFFECT DEVICE

**PETITION UNDER 37 C.F.R. 1.181 TO GRANT A FILING DATE**

COMMISSIONER OF PATENTS & TRADEMARKS  
BOX PCT  
Alexandria, Virginia 22313

SIR:

Applicant respectfully petitions the Commissioner to grant a filing date for the above-identified application. The present application is a national stage filing under 35 U.S.C. 371 of PCT/JP01/08535. The 30 month deadline for entering the national stage in the United States expired on September 29, 2003.

Applicant has been informed by the PCT Help Desk that the Office has no record of the filing of the present application. However, Applicants timely filed an application for entry into the national stage under 35 U.S.C. 371 on September 29, 2003 as evidenced by the enclosed date-stamped filing receipt which indicates that this application was assigned Serial Number 10/472,483.

The application included payment of the basic national fee of \$900.00 by credit card, an executed oath or declaration by the inventors, and an English translation of the International application thereby fulfilling all requirements under 35 U.S.C. 371. A copy of

the application documents filed on September 29, 2003 is attached hereto in addition to a copy of our date-stamped filing receipt. Also attached is a copy of the credit card billing statement showing that the \$900 filing fee which Applicant submitted by credit card with the application filing documents was processed by the Patent Office on October 1, 2003.

The undersigned hereby states that the attached copies are in fact true copies of the original papers filed on September 29, 2003.

Applicant believes that no fee is required for this petition. However, if any fee is required, please charge the required fee to our Deposit Account No. 15-0030. A duplicate copy of this sheet is enclosed.

Applicant therefore believes that a filing date under 35 U.S.C. 371 of 29 September 2003 should be accorded to this application based on the evidence presented herewith. It is respectfully requested that a Notification of Acceptance of Application under 35 U.S.C. 371 and an Official Filing Receipt be issued at the earliest possible date so that the application may proceed to examination without further delay.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND  
MAIER & NEUSTADT, P.C.

*Marvin J. Spivak*  
\_\_\_\_\_  
Marvin J. Spivak  
Registration No. 24,913  
*Surinder Sachar*  
\_\_\_\_\_  
Surinder Sachar  
Registration No. 34,423  
Attorneys of Record

**CUSTOMER NUMBER**  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413-2220